

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOHN R. DEMOS,

Plaintiff,

-v-

UNITED STATES OF AMERICA,

Defendant.

Case No. C-3:10-cv-116

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS REGARDING APPEAL (Doc. #11)
AND ORDERING DEMOS TO PAY THE FILING FEE WITHIN THIRTY
DAYS**

This matter comes before the Court pursuant to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #11) regarding pro se Plaintiff John R. Demos's Appeal. The Sixth Circuit Court of Appeals requires that all district courts in the Circuit determine, in cases such as this where the appellant seeks to proceed in forma pauperis, whether the appeal is frivolous. *Floyd v. United States Postal Service*, 105 F.3d 274 (6th Cir. 1997). In this case, the Magistrate Judge has determined that Demos's Appeal would be frivolous.

Apparently in response to this Report and Recommendations, Demos filed a Motion for Clarification. (Doc. #13.) Therein, Demos seeks to have the Court rescind its prior Order granting in forma pauperis status and relieve him from payment of any filing fee for this case whatsoever. The Magistrate Judge denied Demos's request to be exempted from payment of the filing fee. (Doc. #14.)

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court

finds that the Magistrate Judge's Report and Recommendations regarding Demos's Appeal is adopted in its entirety.

Demos's Appeal would be frivolous. Further, Demos is hereby order to pay the filing fee for this case within thirty (30) days. Finally, if Demos's Motion for Clarification were to be considered an objection, it is OVERRULED.

DONE and ORDERED in Dayton, Ohio, this Twenty-Sixth Day of July, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
John R. Demos at his last address of record